

April 17, 2008

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Suite TW-A325
Washington, D.C. 20554

Re: WC Docket No. 05-337 High-Cost Universal Service Support and CC Docket No.
96-45 Federal-State Joint Board on Universal Service

Dear Ms. Dortch:

Enclosed please find the Connecticut Department of Public Utility Control's comments filed in response to the Federal Communications Commission's (Commission) Notice of Proposed Rulemaking adopted by the Commission on January 16, 2008.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL

Louise Rickard
Acting Executive Secretary

Enc.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
High-Cost Universal Service Support)	WC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

COMMENTS OF THE CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

Donald W. Downes
Chairman

John W. Betkoski, III
Vice-Chairman

Anne C. George
Commissioner

Anthony J. Palermino
Commissioner

April 17, 2008

Connecticut Department of
Public Utility Control

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY.....	1
II.	CTDPUC COMMENTS	2
A.	ELIMINATION OF THE IDENTICAL SUPPORT RULE	2
B.	CAPPING HIGH-COST UNIVERSAL SUPPORT FUND.....	4
C.	THE BROADBAND FUND, MOBILITY FUND AND PROVIDER OF THE LAST RESORT FUND	4
D.	REVERSE AUCTIONS	6
E.	FUND MONITORING AND AUDITS	7
F.	STATES' ROLES AND RESPONSIBILITIES	8
G.	DATA TRANSPORT SPEEDS	8
III.	CONCLUSION	9

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DEPARTMENT OF PUBLIC UTILITY CONTROL

I. INTRODUCTION AND SUMMARY

The Connecticut Department of Public Utility Control (CTDPUC) hereby submits the following comments in response to the Federal Communications Commission's (Commission) Notice of Proposed Rulemaking (NPRM) adopted by the Commission on January 16, 2008, in the above noted proceedings.¹ Because Connecticut is considered a "net contributor state," the CTDPUC recognizes the need for, and

¹ Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (Identical Support Rule NPRM); Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (Reverse Auctions NPRM); Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) (Joint Board Comprehensive Reform NPRM).

encourages Universal Service Fund (USF) reform. The CTDPUC applauds first, the efforts of the Federal-State Joint Board on Universal Service (Joint Board) for its recommendations to reform the fund and second, the Commission, for its courage to address this difficult issue at this time. As discussed in greater detail below, acceptance of the Commission and Joint Board recommendations including, but not limited to, the elimination of the identical support rule; capping the fund; directing USF support to three specific funds (i.e., broadband, mobility and provider of the last resort); implementing reverse auctions; the continued monitoring and auditing of universal service funds by the Commission; delegating to the states certain responsibilities and increasing data transport speeds are all in the public interest. Clearly, the Commission and Joint Board have proffered a number of comprehensive reforms throughout the Joint Board Comprehensive Reform NPRM that are in the public interest and should bring to a standstill, the substantial increases in the USF as well as providing for the increased deployment of mobile and broadband facilities primarily in un-served and underserved areas.

II. CTDPUC COMMENTS

A. ELIMINATION OF THE IDENTICAL SUPPORT RULE

The CTDPUC supports the Commission's elimination of the Identical Support Rule as a means of controlling the growth in the USF. The CTDPUC also approves of the requirement that all competitive eligible telecommunications carriers (CETC) receive support based on their own costs rather than those of the incumbent local exchange carrier (ILEC). In so doing, CETCs would receive high-cost support that reflects their

investment in their service areas. Lastly, the CTDPUC favors the requirement that CETCs file cost data with the Commission.²

It is no secret that providing CETCs with USF support based on the ILEC's costs has greatly increased the size of the USF. It is also no secret that net contributor states like Connecticut and their constituents have year after year contributed heavily to the USF without experiencing any direct benefit from that fund. It is also apparent that the Identical Support Rule inflates the overall cost of the fund by providing a fixed profit margin to the CETCs, particularly, the wireless carriers, by ensuring their support is based on the costs of the ILEC rather than their own.³ The CTDPUC disagrees with the application of the Identical Support Rule because there is no evidence that an ILEC's cost is a good proxy for the CETC's cost of providing service.

Separately, the CTDPUC supports the use of the Wireless Carrier Actual Cost Proposal (WiCAC) to track wireless CETC costs. WiCAC is intended to provide an auditable and administratively workable solution to the problem of wireless CETCs receiving support based on another carrier's costs. Instead of using the Identical Support Rule, the implementation of a wireless-specific cost accounting system such as WiCAC is timely. The use of some cost accounting methodology should also lead to a more equitable manner of USF distribution which ultimately is in the best interest of consumers and eases the burden on the net contributor states such as Connecticut.

² The CTDPUC questions the need for cost of service studies if, as discussed below, reverse auctions are implemented by the Commission.

³ According to Criterion Economics, LLC, the 10 largest recipients of USF subsidies are wireless companies.

B. CAPPING HIGH-COST UNIVERSAL SUPPORT FUND

The CTDPUC also favors the Joint Board recommendation that the Commission cap the amount of high-cost universal support provided to CETCs.⁴ The CTDPUC is concerned that absent this cap, the current high-cost support fund will continue to grow and place an increased burden on consumers. Therefore, the CTDPUC encourages the imposition of a cap on high-cost support at 2007 levels.⁵ Without the cap, the USF will be in jeopardy of becoming unsustainable. Unrestrained growth in the USF will harm universal service by causing erosion of the public support in direct contravention of the goals outlined in Section 254 of the Telecommunications Act of 1996 (i.e., that service be affordable and rates and services be comparable). While the CTDPUC notes that this cap is a temporary solution, the magnitude of the USF at current levels, highlights the severity of the problem and the immediate need for reform. Accordingly, the CTDPUC recommends that the Commission seriously consider any future increases to the USF above the cap, be limited only to inflation.

C. THE BROADBAND FUND, MOBILITY FUND AND PROVIDER OF THE LAST RESORT FUND

The CTDPUC also supports the Joint Board's recommendation that the USF be redirected to three separate funding accounts: a Broadband; wireless or Mobility Fund; and a Provider of Last Resort (POLR) Fund. The CTDPUC believes that the current high-cost universal service mechanisms are dated and need to be revamped, with the objective of developing a coherent funding system that can be equitably applied to all incumbent carriers. Additionally, the CTDPUC is encouraged by the Joint Board's recommendation concerning the awarding of grants by the states based on federal

⁴ High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 8998, 8999-9001, paras. 4-7 (Fed.-State Jt. Bd. 2007)

standards including the provision that they be awarded to only one of each category of provider (i.e., broadband, mobility and POLR) in each high-cost area.

Regarding the administration of the Broadband Fund, the CTDPUC concurs that the states are better qualified to effectively administer the fund program because they possess the detailed knowledge of the areas where broadband facilities have not been deployed and where broadband mapping actions maybe necessary.

Further, the CTDPUC favors the Joint Board's Mobility Fund recommendation as a means of deploying wireless facilities to those areas that continue to be unserved. In particular, the use of monies from this account that would specifically fund facility construction for those essential wireless services even though current usage does not offer a plausible, economic case to support construction and ongoing operations.

Moreover, the CTDPUC believes that while the proposed POLR Fund will continue to offer support to the ILECs, the Joint Board suggestion that a unified support mechanism which accommodates both rural and non-rural carriers has merit. The CTDPUC also believes the Joint Board has offered a detailed, well explained rationale in support of the development of this fund. In the opinion of the CTDPUC, adoption of the POLR Fund should be seriously considered and approved by the Commission.

Finally, the CTDPUC concurs with the suggestion that these funds operate within an overall funding cap which is consistent with the current amount of high-cost funding. The CTDPUC also favors the Joint Board's proposed caps for each fund as discussed in the Recommended Decision. Specifically, the CTDPUC believes that the Broadband Fund cap should be set at \$0.3 billion, the Mobility Fund cap should be set at \$1 billion,

⁵ Current estimates are for high-cost funding of \$4.47 billion in 2007.

and the POLR Fund cap should be set at \$3.2 billion. Over the long term, funding should decrease as broadband and wireless infrastructure deployment become widespread throughout the country.

Clearly, the primary objective of the Mobility and Broadband Funds should be expanding geographic coverage, and support from these funds targeted for capital spending for new construction of mobility and broadband facilities in unserved areas. During the transition period, gradual elimination of support from the Identical Support Rule should also provide a source of funding for these important funds.

The Commission's acceptance of this recommendation should eliminate much of the current duplication of funding by ultimately providing support to only one wireline, wireless, and broadband provider in any given area, once the transition is complete. In some cases, it may make economic sense to provide ongoing support for operation and maintenance of an existing network; however, in most cases, Mobility and Broadband support for operation and maintenance should only be available for a limited period of time. The CTDPUc believes that capping the fund and adopting the three-fund approach, along with the other proposed changes discussed in the Joint Board Comprehensive Reform NPRM if adopted, will be key factors in reducing the overall cost of the USF.

D. REVERSE AUCTIONS

The CTDPUc encourages the use of reverse auctions as an additional means of reducing and controlling the USF. In the opinion of the CTDPUc, implementation of reverse auctions would be simple and eliminate the need for expensive cost of service studies relying instead on the prospective provider to make a determination as to

whether it would offer service based on its own costs. The use of reverse auctions will also provide another tool to control the overall cost of the USF. In short, the use of reverse auctions places the burden on the carrier to estimate the demand for its product and the corresponding costs of providing its service while eliminating the redundant support going to multiple providers serving a single area. The CTDPUC believes that the use of reverse auctions deserves further investigation, and as such, they should be seriously considered by the Commission.

E. FUND MONITORING AND AUDITS

The CTDPUC believes that under the current USF system, opportunities may exist for fraud. The Commission has previously adopted performance measures to improve the productivity and efficiency of the High Cost program and adopted additional measures to safeguard the USF from waste, fraud, and abuse as well as improve the management, administration and oversight of the USF.⁶ The CTDPUC fully supports these efforts by the Commission, but believes that a more structured approach with more frequent auditing would further safeguard the integrity of the fund. The USF system generally accepts whatever costs the carriers report regardless of whether they operate more efficiently and whether new deployed technologies might offer reduced costs. The CTDPUC is of the opinion that continued review of the USF through the use of Improper Payments Information Act audits, further the opportunities for USF oversight improvement. These audits are conducted of a statistical sample of the beneficiaries of the four USF fund programs and the CTDPUC believes they can continue to provide the

⁶ See Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight, WC Docket No. 05-195, Report and Order, 22 FCC Rcd 16372,

baseline from which the Commission can determine where targeted audits are necessary in the future.

F. STATES' ROLES AND RESPONSIBILITIES

The CTDPUC also believes that “broadband” meets the definition of the services that should be supported by USF support mechanisms. Additionally, the CTDPUC is of the opinion that the objectives of the Joint Board’s recommended three funds are appropriate objectives for Federal support mechanisms. Thus, the CTDPUC agrees with and endorses the Joint Board’s recommendation that the state-federal partnership regarding universal service be strengthened. Clearly, the states possess the greatest knowledge and expertise relative to identifying unserved areas and targeting support to them. More importantly, the states have demonstrated their ability to operate independently from the federal government, as evidenced by their implementation of state universal service programs that have and continue to address their individual needs and preferences. They also have specific responsibilities imposed on them when meeting universal service goals, which they have accepted and addressed head on. The CTDPUC believes that the states are in the best position to award funds because they know better the telecommunications markets and can more accurately direct the funding to those areas based on their inherent characteristic(s).

G. DATA TRANSPORT SPEEDS

Finally, the CTDPUC agrees with the Joint Board suggestion that a more rigorous standard than the current 200 Kbps for data transport should be employed. The CTDPUC is of the opinion that while the current 200 kbps standard is approximately four times the speed of dial-up access, it has become outdated and does

not meet the needs of all end users. In some cases the states have taken the initiative to redefine broadband speeds on their own. See for example, the standard announced in the recent New York Public Service Commission broadband initiative, of 10 Mbps for download purposes. Moreover, while Verizon is offering 50 Mbps FIOS in the United States, 100 Mbps services are common in Europe, and the Japanese are offering 1 gigabit services.⁷ In order for the United States to stay competitive with other nations, faster data transfer speeds, both upload and download are needed. The CTDPU recommends that the Commission seriously consider requiring carriers to provide faster data transfer speeds as a requirement for receiving broadband funds.

III. CONCLUSION

Through the Joint Board Comprehensive Reform NPRM, the Joint Board and the Commission have recommended a number of measures that, after capping the USF at the 2007 level, should reduce the overall size of the fund and provide support to where

⁷ New York Times, April 9, 2008, "Study Gives High Marks to U.S. Internet."

it is required. The recommendations and proposals discussed in the above noted NPRM and supported in part by the CTDPUC are timely, in the public interest and should be adopted by the Commission posthaste.

Respectfully submitted,

CONNECTICUT DEPARTMENT OF
PUBLIC UTILITY CONTROL

Donald W. Downes
Chairman

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Vice-Chairman

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CERTIFICATION

Larry P. Levesque
Commissioner of the Superior Court